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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. _____

To protect victims of crime or serious labor violations from removal during Department of Homeland Security enforcement actions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. CHU introduced the following bill; which was referred to the Committee
on _____

A BILL

To protect victims of crime or serious labor violations from removal during Department of Homeland Security enforcement actions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protect Our Workers
5 from Exploitation and Retaliation Act” or the “POWER
6 Act”.

1 **SEC. 2. VICTIMS OF SERIOUS LABOR AND EMPLOYMENT**
2 **VIOLATIONS OR CRIME.**

3 (a) PROTECTION FOR VICTIMS OF LABOR AND EM-
4 PLOYMENT VIOLATIONS.—Section 101(a)(15)(U) of the
5 Immigration and Nationality Act (8 U.S.C.
6 1101(a)(15)(U)) is amended—

7 (1) in clause (i)—

8 (A) by striking subclause (I) and inserting
9 the following:

10 “(I) the alien—

11 “(aa) has suffered substantial
12 physical, emotional, or mental abuse
13 or harm as a result of having been a
14 victim of criminal activity described in
15 clause (iii);

16 “(bb) has suffered substantial
17 physical, emotional, or mental abuse
18 or harm related to a violation de-
19 scribed in clause (iv);

20 “(cc) is a victim of criminal ac-
21 tivity described in clause (iii) and
22 would suffer extreme hardship upon
23 removal; or

24 “(dd) has suffered a violation de-
25 scribed in clause (iv) and would suffer
26 extreme hardship upon removal;”;

1 (B) in subclause (II), by inserting “, or a
2 labor or employment violation resulting in a
3 workplace claim described in clause (iv)” before
4 the semicolon at the end;

5 (C) in subclause (III)—

6 (i) by striking “or State judge, to the
7 Service” and inserting “, State, or local
8 judge, to the Department of Homeland Se-
9 curity, to the Equal Employment Oppor-
10 tunity Commission, to the Department of
11 Labor (including the Occupational Safety
12 and Health Administration), to the Na-
13 tional Labor Relations Board, to the head
14 official of a State or local government de-
15 partment of labor, workforce commission,
16 or human relations commission or coun-
17 cil”;

18 (ii) by striking “investigating or pros-
19 ecuting” and inserting “investigating,
20 prosecuting, or seeking civil remedies for”;
21 and

22 (iii) by inserting “, or investigating,
23 prosecuting, or seeking civil remedies for a
24 labor or employment violation related to a

1 workplace claim described in clause (iv)”
2 before the semicolon at the end; and

3 (D) in subclause (IV)—

4 (i) by inserting “(aa)” after “(IV)”;

5 (ii) by inserting “or” after the semi-
6 colon at the end; and

7 (iii) by adding at the end the fol-
8 lowing:

9 “(bb) a workplace claim described in clause (iv)
10 resulting from a labor or employment violation;”;

11 (2) in clause (ii)(II), by striking “and” at the
12 end;

13 (3) in clause (iii), by striking “or” at the end
14 and inserting “and”; and

15 (4) by adding at the end the following:

16 “(iv) in the labor or employment violation
17 related to a workplace claim, the alien has filed,
18 is a material witness in, or is likely to be help-
19 ful in the investigation of, a bona fide work-
20 place claim (as defined in section
21 274A(e)(10)(B)(iii)(II)); or”.

22 (b) TEMPORARY PROTECTION FOR INJURED WORK-
23 ERS AND VICTIMS OF CRIME, LABOR, AND EMPLOYMENT
24 VIOLATIONS.—Notwithstanding any other provision of
25 law, the Secretary of Homeland Security may permit an

1 alien to temporarily remain in the United States, shall not
2 remove the alien from the United States during the per-
3 mitted period, and shall provide the alien with the alien
4 employment authorization, if the Secretary determines
5 that the alien—

6 (1) has filed for relief under section
7 101(a)(15)(U) of the Immigration and Nationality
8 Act (8 U.S.C. 1101(a)(15)(U)) or section
9 101(a)(15)(T) of such Act (8 U.S.C.
10 1101(a)(15)(T));

11 (2)(A) has filed, or is a material witness to, a
12 bona fide workplace claim (as defined in section
13 274A(e)(10)(B)(iii)(II) of such Act, as added by sec-
14 tion 3(b) of this Act) or has filed, or is a material
15 witness to, a civil claim arising from criminal activ-
16 ity (as defined in section 274A(e)(10)(B)(iii)(III) of
17 such Act); and

18 (B) has been helpful, is being helpful, or is like-
19 ly to be helpful to—

20 (i) a Federal, State, or local law enforce-
21 ment official;

22 (ii) a Federal, State, or local prosecutor;

23 (iii) a Federal, State, or local judge;

24 (iv) the Department of Homeland Security;

1 (v) the Equal Employment Opportunity
2 Commission;

3 (vi) the Department of Labor, including
4 the Occupational Safety and Health Adminis-
5 tration;

6 (vii) the National Labor Relations Board;

7 (viii) the head official of a State or local
8 government department of labor, workforce
9 commission, or human relations commission or
10 council; or

11 (ix) other Federal, State, or local authori-
12 ties; or

13 (3) has filed a workers' compensation claim or
14 is undergoing treatment for a workplace injury or
15 illness.

16 (c) REQUIREMENTS APPLICABLE TO U VISAS.—Sec-
17 tion 214(p) of the Immigration and Nationality Act (8
18 U.S.C. 1184(p)) is amended—

19 (1) in paragraph (1), by inserting “or inves-
20 tigating, prosecuting, or seeking civil remedies for
21 workplace claims described in section
22 101(a)(15)(U)(iv)” after “section
23 101(a)(15)(U)(iii)” each place such term appears;

24 (2) by striking paragraph (2); and

25 (3) in paragraph (6)—

1 (A) by inserting “or workplace claims de-
2 scribed in section 101(a)(15)(U)(iv)” after “de-
3 scribed in section 101(a)(15)(U)(iii)”;

4 (B) by inserting “or workplace claim”
5 after “prosecution of such criminal activity”.

6 (d) ADJUSTMENT OF STATUS FOR VICTIMS OF
7 CRIMES.—Section 245(m)(1) of the Immigration and Na-
8 tionality Act (8 U.S.C. 1255(m)(1)) is amended by insert-
9 ing “or an investigation or prosecution regarding a work-
10 place claim” after “prosecution”.

11 (e) ADJUSTMENT OF STATUS AND FEES.—Section
12 245(l)(7) of the Immigration and Nationality Act (8
13 U.S.C. 1255(l)(7)) is amended by striking “permit aliens
14 to apply for a waiver of” and inserting “not require the
15 payment of any”.

16 (f) CHANGE OF NONIMMIGRANT CLASSIFICATION.—
17 Section 384(a)(1) of the Illegal Immigration Reform and
18 Immigrant Responsibility Act of 1996 (8 U.S.C.
19 1367(a)(1)) is amended—

20 (1) in subparagraph (E), by striking “physical
21 or mental abuse and the criminal activity” and in-
22 sserting “abuse and the criminal activity or work-
23 place claim”;

24 (2) in subparagraph (F), by adding “or” at the
25 end; and

1 (3) by inserting after subparagraph (F) the fol-
2 lowing:

3 “(G) the alien’s employer.”.

4 (g) CONFIDENTIALITY OF INFORMATION.—Section
5 384(b)(2) of the Illegal Immigration Reform and Immi-
6 grant Responsibility Act of 1996 (8 U.S.C. 1367(b)(2))
7 is amended by adding at the end the following:

8 “However, neither the Secretary of Homeland Secu-
9 rity nor the Attorney General may use the informa-
10 tion furnished pursuant to any application under
11 section 101(a)(15)(T), 101(a)(15)(U), 101(a)(27),
12 101(a)(51), 106, 240A(b)(2), or 244(a) of the Immi-
13 gration and Nationality Act (8 U.S.C.
14 1101(a)(15)(T); 1101(a)(15)(U); 1101(a)(27);
15 1101(a)(51); 1105a; 1229b(b)(2); 1254a(a)), or sec-
16 tion 107(b)(1)(E)(i)(II)(bb) of the Victims of Traf-
17 ficking and Violence Protection Act of 2000 (22
18 U.S.C. 7105(b)(1)(E)(i)(II)(bb)), for purposes of
19 initiating or carrying out a removal proceeding.”.

20 **SEC. 3. LABOR ENFORCEMENT ACTIONS.**

21 (a) REMOVAL PROCEEDINGS.—Section 239(e) of the
22 Immigration and Nationality Act (8 U.S.C. 1229(e)) is
23 amended—

24 (1) in paragraph (1)—

1 (A) by striking “In cases where” and in-
2 serting “If”; and

3 (B) by inserting “or as a result of informa-
4 tion provided to the Department of Homeland
5 Security in retaliation against individuals for
6 exercising or attempting to exercise their em-
7 ployment rights or other legal rights” after
8 “paragraph (2)”; and

9 (2) in paragraph (2), by adding at the end the
10 following:

11 “(C) At a facility about which a workplace
12 claim has been filed or is contemporaneously
13 filed.”.

14 (b) UNLAWFUL EMPLOYMENT OF ALIENS.—Section
15 274A(e) of the Immigration and Nationality Act (8 U.S.C.
16 1324a(e)) is amended by adding at the end the following:

17 “(10) CONDUCT IN ENFORCEMENT ACTIONS.—

18 “(A) ENFORCEMENT ACTION.—If the Sec-
19 retary of Homeland Security undertakes an en-
20 forcement action at a facility about which a
21 workplace claim has been filed or is contem-
22 poraneously filed, or as a result of information
23 provided to the Department of Homeland Secu-
24 rity in retaliation against employees for exer-

1 eising their rights related to a workplace claim,
2 the Secretary shall ensure that—

3 “(i) any aliens arrested or detained
4 who are victims of or material witnesses to
5 workplace claim violations or criminal ac-
6 tivity (as described in subparagraph (T) or
7 (U) of section 101(a)(15)) are not removed
8 from the United States until after the Sec-
9 retary—

10 “(I) notifies the appropriate
11 agency with jurisdiction over such vio-
12 lations or criminal activity; and

13 “(II) provides such agency with
14 the opportunity to interview such
15 aliens; and

16 “(ii) no aliens entitled to a stay of re-
17 moval or abeyance of removal proceedings
18 under this section are removed.

19 “(B) PROTECTIONS FOR VICTIMS OF
20 CRIME, LABOR, AND EMPLOYMENT VIOLA-
21 TIONS.—

22 “(i) STAY OF REMOVAL OR ABEYANCE
23 OF REMOVAL PROCEEDINGS.—An alien
24 against whom removal proceedings have
25 been initiated under chapter 4 of title II,

1 who has filed a workplace claim, who is a
2 material witness in any pending or antici-
3 pated proceeding involving a bona fide
4 workplace claim or civil claim arising from
5 criminal activity, or who has filed for relief
6 under section 101(a)(15)(U), shall be enti-
7 tled to a stay of removal or an abeyance of
8 removal proceedings and to employment
9 authorization until the resolution of the
10 workplace claim or the denial of relief
11 under section 101(a)(15)(U) after exhaus-
12 tion of administrative or judicial appeals,
13 whichever is later.

14 “(ii) DURATION.—Any stay of re-
15 moval or abeyance of removal proceedings
16 and employment authorization issued pur-
17 suant to clause (i) shall remain valid until
18 the resolution of the workplace claim or
19 the denial of relief under section
20 101(a)(15)(U) after the exhaustion of ad-
21 ministrative or judicial appeals, and shall
22 be extended by the Secretary of Homeland
23 Security for a period of not longer than 10
24 additional years upon determining that—

1 “(I) such relief would enable the
2 alien asserting a workplace claim or
3 civil claim arising from criminal activ-
4 ity, or assisting in investigation or
5 prosecution of criminal activity, to
6 pursue the matter to resolution, ac-
7 cording to any agency administering
8 any statute underlying these claims or
9 any other credible evidence;

10 “(II) the deterrent goals of any
11 statute underlying a workplace claim,
12 criminal activity, or civil claim arising
13 from criminal activity would be
14 served, according to any agency ad-
15 ministering such a statute or any
16 other credible evidence; or

17 “(III) such extension would oth-
18 erwise further the interests of justice.

19 “(iii) DEFINITIONS.—In this para-
20 graph:

21 “(I) MATERIAL WITNESS.—Not-
22 withstanding any other provision of
23 law, the term ‘material witness’ means
24 an individual who presents a declara-
25 tion from an attorney investigating,

1 prosecuting, or defending the claim or
2 from the presiding officer overseeing
3 the claim attesting that, to the best of
4 the declarant’s knowledge and belief,
5 reasonable cause exists to believe that
6 the testimony of the individual will be
7 relevant to the outcome of the work-
8 place claim.

9 “(II) WORKPLACE CLAIM.—The
10 term ‘workplace claim’ means any
11 written or oral claim, charge, com-
12 plaint, or grievance filed with, commu-
13 nicated to, or submitted to the em-
14 ployer, a Federal, State, or local agen-
15 cy or court, or an employee represent-
16 ative related to the workplace injury
17 or illness or to the violation of appli-
18 cable Federal, State, and local labor
19 laws, including laws concerning wages
20 and hours, labor relations, family and
21 medical leave, occupational health and
22 safety, civil rights, or nondiscrimina-
23 tion.

24 “(III) CIVIL CLAIM ARISING
25 FROM CRIMINAL ACTIVITY.—The term

1 ‘civil claim arising from criminal ac-
2 tivity’ means any written or oral
3 claim, charge, complaint, or grievance
4 filed with, communicated to, or sub-
5 mitted to a Federal, State, or local
6 agency or court related to the viola-
7 tion of applicable Federal, State, and
8 local laws arising from criminal activ-
9 ity described in section
10 101(a)(15)(U)(iii).”.

11 (c) CONTINUED APPLICATION OF WORKFORCE AND
12 LABOR PROTECTION REMEDIES.—Section 274A(e) of the
13 Immigration and Nationality Act (8 U.S.C. 1324a(e)), as
14 amended by subsection (b), is further amended by adding
15 at the end the following:

16 “(11) RIGHTS, REMEDIES, AND RELIEF.—Not-
17 withstanding an employee’s status as an unauthor-
18 ized noncitizen during the time of relevant employ-
19 ment or during the back pay period or the failure of
20 the employer or employee to comply with the re-
21 quirements under this section or with any other pro-
22 vision of Federal law relating to the unlawful em-
23 ployment of noncitizens—

24 “(A) all rights, remedies, and relief pro-
25 vided under any Federal, State, or local law re-

1 lating to workplace rights, including reinstatement and back pay, are available to such employee; and

2 “(B) a court may not prohibit such an employee from pursuing other causes of action giving rise to liability in a civil action.”.